

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 10-CR-00771 (NG)

-against- : United States Courthouse
IRINA SHELIKOVA, : Brooklyn, New York

Defendant. : Tuesday, November 12, 2013
: 2:30 p.m.

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TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE NINA GERSHON
UNITED STATES SENIOR DISTRICT JUDGE

A P P E A R A N C E S:

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1 (In open court.)

2 (Judge NINA GERSHON enters the courtroom.)

3 THE COURTROOM DEPUTY: All rise.

4 United States District Court for the Eastern
5 District of New York is now in session. The Honorable Nina
6 Gershon is now presiding.

7 THE COURT: Good afternoon.

8 MR. ROSEN: Good afternoon, Your Honor.

9 (Defendant enters the courtroom.)

10 THE COURTROOM DEPUTY: Criminal cause for
11 sentencing, United States versus Irina Shelikhova.

12 May I have the appearances for the Government,
13 please.

14 MS. HALL: Good afternoon, Your Honor. Sarah Hall
15 and William Gullotta of the United States.

16 THE COURT: I'm sorry, Sarah Hall and who?

17 MS. HALL: And William Gullotta for the
18 United States.

19 MR. GULLOTTA: Good afternoon, Your Honor.

20 THE COURTROOM DEPUTY: From Probation.

21 USPO DONAT: Amanda Donat, Probation.

22 THE COURTROOM DEPUTY: For the defendant.

23 MR. ROSEN: Michael Rosen for Mrs. Shelikhova, good
24 afternoon.

25 THE COURTROOM DEPUTY: And the interpreter, can I

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1 have your appearance, please.

2 THE RUSSIAN INTERPRETER: Yana Agoureev, Russian
3 interpreter.

4 (Official interpreter sworn.)

5 THE COURTRoom DEPUTY: Thank you.

6 Everyone please be seated.

7 THE COURT: Did everyone receive the
8 Probation Department's recommendation?

9 MR. ROSEN: Yes, Your Honor.

10 MS. HALL: Yes, Your Honor.

11 THE COURT: Ms. Shelikhova, did you read the
12 Pre-Sentence Report and the addendum to the Pre-Sentence
13 Report?

14 THE DEFENDANT: (In English) Yes.

15 THE COURT: Was it translated for you into Russian?

16 THE DEFENDANT: Yes, it was.

17 THE COURT: Orally? Or in writing?

18 THE DEFENDANT: Orally.

19 THE COURT: Okay. By whom?

20 THE DEFENDANT: The lawyer came for a visit with an
21 interpreter and it was translated to me during that time.

22 THE COURT: Is that right, Mr. Rosen?

23 MR. ROSEN: Yes, Your Honor. The interpreter was
24 Isabella -- are you in court -- Isabella is the interpreter.

25 THE COURT: The interpreter who's frequently here,

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1 has been in this case?

2 MR. ROSEN: Exactly, and who has been at the MCC
3 with me many times with Mrs. Shelikhova.

4 THE COURT: Okay. All right. Victor, you have her,
5 you know her last name?

6 THE COURTROOM DEPUTY: Isabella is also here in the
7 audience.

8 THE COURT: She is here?

9 All right. Thank you. May we have your last name
10 for the record, please?

11 THE RUSSIAN INTERPRETER: Yes, Avrutim --
12 A-V-R-U-T-I-M.

13 THE COURT: Thank you.

14 Then let me put on the record the other documents,
15 in addition to the Pre-Sentence Report and the addendum to the
16 Pre-Sentence Report, which I have reviewed.

17 I have the Government's letter of September 6th,
18 2013.

19 Mr. Rosen's letter of September 5th.

20 Mr. Rosen's letter of November 4th.

21 On September 9th, I also received via Michael
22 Shapiro, counsel for the defendant, Maksim Shelikhova, a
23 letter on behalf of his mother, the defendant here today.

24 Actually, it says it was cc'd to Ms. Hall, but
25 Mr. Rosen, I don't know whether you received it.

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1 MR. ROSEN: I did, Your Honor.

2 THE COURT: All right.

3 All right. Were there any other documents that
4 should be in my file?

5 MR. ROSEN: None that I've submitted, Judge.

6 MS. HALL: No, Your Honor.

7 THE COURT: Okay.

8 And the preliminary order of forfeiture was already
9 signed; is that correct?

10 MR. GULLOTTA: Was it signed? I know it was
11 submitted on September 5th.

12 THE COURTRoom DEPUTY: It has been filed, Judge.
13 Your order has been signed and filed.

14 THE COURT: I haven't signed it yet, are you sure?

15 THE COURTRoom DEPUTY: You have signed it.

16 THE COURT: I have signed it?

17 THE COURTRoom DEPUTY: I'll double-check.

18 THE COURT: I have an unsigned copy in my file.
19 This would have been the preliminary order of forfeiture.

20 Counsel, did you receive the signed copy and was it
21 on ECF?

22 MR. GULLOTTA: I don't recall seeing it.

23 MR. ROSEN: No, Your Honor.

24 THE COURT: You don't think so? Okay.

25 THE COURTRoom DEPUTY: No, Judge.

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1 THE COURT: All right. Then I've signed it as of
2 today. And that was an order of forfeiture in the agreed-upon
3 amount of \$38,241,545.

4 I should say that the letter from Mr. Rosen also
5 includes a letter from the defendant herself, as well as other
6 individuals who wrote in support of the defendant.

7 Let's take up now the objections that the defense
8 has made to the calculations by the Probation Department.

9 Some of the objections seem to relate to issues that
10 really would be immaterial to the sentencing and unless the
11 defense wishes me to pursue them, I won't refer to them. The
12 one that might affect the sentencing relates to the loss.

13 MR. ROSEN: Yes, Your Honor.

14 THE COURT: Did you have anything further that
15 anybody wanted to say on loss?

16 MR. ROSEN: On loss, Your Honor, I'm aware of
17 Your Honor's finding in the prior sentences in this case. I
18 think Your Honor found that the intended loss was \$77 million.

19 THE COURT: Right. And the actual loss was over 50
20 million.

21 MR. ROSEN: What I just wish to address on the, I
22 guess, the actual loss, you know, I begin with the complaint
23 which is document number one, ECF Document 1, where it says in
24 the complaint that the clinics received 46,887,000 and I then
25 just call Your Honor's attention to document 663, which is the

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1 Government's letter that you referred to earlier. I think
2 it's the September 6th letter, where they assert that
3 Mrs. Shelikhova profited \$38,241,000.

4 THE COURT: Well, she agreed to that forfeiture
5 amount, has she not?

6 MR. ROSEN: Yes, I'm not quibbling with that.

7 THE COURT: All right.

8 MR. ROSEN: I'm trying get to the point that in the
9 cooperating witness's plea, which is Document 391, pages 21 to
10 22, through counsel, the witness himself -- the cooperating
11 witness himself, Mr. Shelikhova, Maksim Shelikhova, questions
12 the loss being in excess of 50 million. That's where I just
13 pick up the differences.

14 I understand Your Honor's rulings and I don't intend
15 and I don't have proof to counter the 50 million mark. I just
16 call to Your Honor's attention the differences throughout this
17 litigation on who says what loss, but as I understand it,
18 Judge Gershon, it's what you say that counts and, obviously,
19 you've already made this determination. But I just want to
20 point out that there seems to be differences along the way.

21 The other thing, and I think that was already
22 litigated before Your Honor.

23 THE COURT: Well, let's deal with loss first, okay,
24 and then we'll go to the next.

25 Does this relate to loss?

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1 MR. ROSEN: It does, Judge.

2 THE COURT: Okay.

3 MR. ROSEN: And I think that you also determined
4 during Dr. Drivas's sentence, I again would like to put forth
5 the application note 3(e) of guideline 2(b)(1), 1(b)(1)(k)
6 which once you get through some of the verbiage recognizes a
7 loss offset by the fair market value of services that are
8 rendered to the victim, and the victim here, I can see, is
9 Medicare, and what I propose is that the Government has never,
10 to my knowledge and I wasn't part of the trial, obviously, but
11 I have never seen where the Government maintains and can prove
12 that everything that happened in five years at these clinics
13 was a phantom, was a fiction. Because if services were is
14 rendered, and I know Your Honor has heard this before and has
15 ruled, but I think it's my obligation to reinvent it, if I
16 can, that if services were rendered to eligible beneficiaries
17 and those services were needed, then I think the guideline --
18 again, 2(b)(1), 1(b)(1)(k), application note 3(e), recognizes
19 that there recognize that is there should be an offset.

20 And I submit from what I know, and I'm not the last
21 word on this, again, you are, that there were services
22 rendered that were needed to people who were eligible. So, I
23 can't accept based on what I've been immersed in this thing
24 for all these, I guess, months, years now, that everything
25 that happened at these three locations didn't happen. So,

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1 again, I voice my objection based on that.

2 There is a case called United States versus Byors,
3 B-Y-0-R-S, at 386 F.3d 222 Second Circuit 2009, that seems to
4 agree with that proposition that there should be an offset.
5 And unless the Government will again represent, which I don't
6 know if they ever have, but represent that there was never
7 anything valid and legitimate in terms of affording medical
8 care at those clinics, then there should be an offset.

9 I am not looking, Judge Gershon, for a hearing or a
10 Fatico or anything like that. I am just bringing to the
11 Court's attention some of the questions I have when I went
12 through this Probation report. And I understand this was
13 articulated to Your Honor and Your Honor rejected that, at
14 least that's what I was told by counsel who appeared for
15 Dr. Drivas at his sentencing.

16 The other objections, I think you're a hundred
17 percent right, they don't apply to loss and two of my
18 objections have been corrected by Ms. Donat, I believe, and
19 that becomes moot.

20 If Your Honor wants to know the paragraphs that the
21 Probation Department did correct, I'll supply them to you.

22 THE COURT: I think it's set forth in their letter
23 and that's sufficient.

24 MR. ROSEN: Okay.

25 I believe, Your Honor, that is the totality of the

1 loss objections. I have a couple of others that I wish to
2 just articulate.

3 THE COURT: All right, go ahead.

4 MR. ROSEN: That's paragraph 20 of the Pre-Sentence
5 Report, where Mrs. Shelikhova denies ordering doctors to open
6 corporate bank accounts. And again, I understand that it has
7 no bearing on the guidelines.

8 THE COURT: Well, she opened them herself; correct?

9 MR. ROSEN: Well, bank accounts for the clinics and
10 then there were physicians that opened their own corporate
11 accounts and the PSR says that she had ordered these doctors
12 to do so. She has advised me that she would like that to be
13 corrected. And again, I don't believe, as the report says,
14 there's no bearing on the guidelines.

15 And paragraph 21, most respectfully, also having no
16 bearing on the guidelines, Mrs. Shelikhova has advised me to
17 advise the Court that she denies the allegation of Medicaid
18 fraud with regard to REM transportation.

19 And I think there's one more, with the Court's
20 permission.

21 THE COURT: Yes, go ahead.

22 MR. ROSEN: It is paragraph 31 where Mrs. Shelikhova
23 has asked me to transmit to the Court her objection to being
24 named a participant in an alleged fraud at a former clinic.

25 THE COURT: Well, I'm not addressing that at all.

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1 MR. ROSEN: Okay. I just thought I would make a
2 record. I don't have --

3 THE COURT: I don't have sufficient evidence with
4 regard to that, and I don't intend to rely on that anyway.

5 MR. ROSEN: Okay.

6 Other than that, I don't have any factual objections
7 with regard to the Pre-Sentence Report.

8 THE COURT: All right.

9 Let me hear from the Government with respect,
10 essentially, to the loss amount and the set-off issue. I am
11 trying to think which case where this was raised.

12 MR. ROSEN: I think it was Dr. Drivas, most
13 respectfully. I think Mr. Adler raised it because, quite
14 frankly, I called Mr. Adler and asked him.

15 THE COURT: Did you raise it in your papers or
16 you're just raising it now?

17 MR. ROSEN: No, I think I did.

18 THE COURT: The set-off issue?

19 MR. ROSEN: Let me --

20 THE COURT: I'm trying to locate it in the
21 sentencing transcript for Dr. Drivas.

22 MR. ROSEN: Well, you may be right. I think I
23 raised it in my objections.

24 THE COURT: I see, okay.

25 Let me hear from the Government. As I say, I'd like

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1 to see, since you relied on the argument made by other
2 counsel, I'd like to see exactly where it is. I know I
3 rejected it, but I had something to say and I'd like to find
4 out what that was.

5 MR. ROSEN: I understand that's what Your Honor did.

6 MS. HALL: Your Honor, just to address some of the
7 points that defense counsel made.

8 He cites the original complaint in this case, and I
9 don't have it in front of me, but he cited a loss amount in
10 the complaint as 46 million.

11 By the time the Government superseded on the
12 indictment, the figures had been refreshed from Medicare. We
13 had obtained more updated data as to the billing and that
14 figure placed the paid amount over \$50 million.

15 So, the complaint was early on in the case. It was
16 superseded by further information received from Medicare as to
17 the loss amount.

18 In regards to --

19 THE COURT: Let me just address that first.

20 The addendum to the PSR addresses the objection to
21 the loss amount, and I am satisfied that that is completely
22 correct and that the attempt at loss was \$77 million, the
23 actual loss was over \$50 million, as set forth by Medicare
24 itself, and there really hasn't been any challenge to that
25 other than this claim that set off should apply.

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1 So, you could point me, if you know, to where I
2 dealt with this before, or just deal with it again now, that
3 would be helpful.

4 MS. HALL: In regard to the offset, Your Honor?

5 THE COURT: Yes.

6 MS. HALL: I don't recall it being raised before by
7 this defense counsel's papers, but --

8 THE COURT: But it was raised by another party, as
9 he says.

10 MS. HALL: Yes.

11 THE COURT: But I am having difficulty locating it.

12 MS. HALL: That, I couldn't, I'm not, I don't know
13 where it is.

14 THE COURT: All right.

15 MS. HALL: The Government does recognize that
16 guidelines do make account for potential for an offset of the
17 fair market value of legitimate services rendered.

18 THE COURT: Right.

19 MS. HALL: That is what the guidelines say.

20 However, in this case, under, since we are now in a
21 sentencing posture, the preponderance of the evidence standard
22 is, in effect and the Government has put forward more than
23 sufficient evidence to meet that preponderance standard to
24 show that the loss amount is what the Government has asserted
25 it to be.

1 For example, we cite in the sentencing papers for
2 this defendant on page 11 of the Government's letter,
3 September 6th, 2013, United States versus Aginsky case, that's
4 165 F.3d at 15. It's Second Circuit 1998, which holds that
5 under a preponderance of the evidence standard in effect at
6 sentencing, the inference may be properly drawn that where
7 beneficiaries were paid kickbacks, the Court may properly
8 conclude that the entire amount was fraudulent.

9 And there is other authority to that effect as well.
10 So the offset issue, while there is a provision for that in
11 the guidelines, doesn't apply in this case.

12 In regard to the other objections that defense
13 counsel raises, as Your Honor points out, they're not relevant
14 to the guidelines calculation.

15 THE COURT: All right. Counsel, I have located
16 something in the papers earlier, so let me take a very brief
17 recess to take a look at this set-off issue again, and I will
18 resume in a few minutes.

19 (Recess taken at 4:15 p.m.)

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1 (In open court.)

2 (Judge NINA GERSHON enters the courtroom.)

3 THE COURTROOM DEPUTY: All rise.

4 Thank you, please be seated.

5 (Defendant enters the courtroom.)

6 THE COURT: All right, Counsel, we're resuming on
7 the issue of the offset.

8 As I understand it, Mr. Rosen -- you can have a seat
9 -- your position is that you're not looking for an evidentiary
10 hearing on an offset, you're just saying there should be an
11 offset for legitimate services.

12 I assume that, like every other defense attorney in
13 this case, you had a full access to all of the records, all of
14 the patient records, the codes for each treatment, the
15 Medicare billing records, the actual charts of the patients,
16 that you wanted to review them, and it seems to me that the
17 Government has amply proved both the actual loss and the
18 intended loss, the intended loss being \$77 million.

19 In order for an offset to have any significance on
20 the guidelines, the offset would have to be greater than
21 \$27 million to bring the loss below \$50 million, and what I've
22 seen in this case is massive fraud, intentional fraud.

23 The purpose of the clinics from the very beginning
24 being not to provide patient treatment, but rather to bilk
25 Medicare of money to do that in a wide variety of ways that

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1 have been identified in detail in the Government's papers and
2 certainly clear from the trial in this case and are set forth
3 in the Probation report as well, but most particularly in the
4 Government's letters.

5 And that in the face of this, it seems to me that if
6 the defense wants to argue that there should be some offset
7 for some legitimate services that were ever provided by this
8 clinic, that it would be up to the defense to show me even one
9 legitimate service that was performed under the direction of
10 this defendant.

11 And then in the absence of anything at all, or any
12 reason to believe that this defendant intended to provide any
13 legitimate service to anyone, and actually did provide
14 legitimate services which Medicare should be responsible for,
15 I am going to deny this application with regard --

16 MR. ROSEN: Could I --

17 THE COURT: Yes, go ahead.

18 MR. ROSEN: Could I just comment on, Your Honor --

19 THE COURT: Sure.

20 MR. ROSEN: -- as held, I understand it's been the
21 Government's position from day one that the purpose of all
22 these three clinics was not to treat patients, but to defraud
23 Medicare.

24 I just wish to take exception to that respectfully,
25 because I thought it was the Government's burden to separate

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1 if there were legitimate treatments. It would be their
2 obligation to show that there were no, in five years, in three
3 clinics, not one person was appropriately treated because
4 Judge, Judge Gershon, not everybody got a kickback. Not every
5 patient got a kickback.

6 And from my experience with another similar type
7 case in this district, kickbacks were improper, I'm not
8 suggesting they're proper, had a different reality than the
9 Government has portrayed from day one, the competition in that
10 Brighton Beach area, I mean, when I was in Brighton Beach, we
11 didn't have -- we just had knishes, not 400 medical centers.

12 But the competition, some clinics offered vacations,
13 dinners, food, and some clinics bartered who accounted with,
14 well, we'll give people money to come in. Not to create
15 illnesses and phony treatments, because they wouldn't have to
16 buy these tons of medical equipment and all of that, if it ws
17 all like the old boiler rooms in the stock cases, Judge
18 Gershon, where you had a desk and a phone, and you didn't need
19 anything.

20 So, I appreciate and respect Your Honor's holding
21 and findings, I just wish to articulate as best I can why I
22 think that the Government has not established that there were
23 no legitimate treatment afforded to the patients there, and
24 that's really what I wanted to say.

25 THE COURT: All right. Ms. Hall, do you want to

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1 say anything with respect to that?

2 MS. HALL: Your Honor, the Government's position is
3 that we have adequately and amply set forth a myriad of
4 fraudulent schemes that were perpetrated at this clinic.

5 One of the main masterminds, the niece of this
6 defendant, stated -- and that's cited in our brief -- that the
7 entire purpose of this clinic was to defraud.

8 The exhibit to the Government's sentencing
9 memorandum sets forth five single-spaced pages of different
10 types of fraudulent billing schemes from the payment of
11 kickbacks to induce the beneficiaries to attend the clinic to
12 receive services they didn't need, to billing for things that
13 were entirely invented out of thin air, such as the sleep
14 study tests.

15 There was testimony at the trial from the
16 Government's undercover witness who was billed for a number of
17 \$1,000 sleep-study tests that he never had. We had massive
18 falsification of medical charts by individuals with no medical
19 qualifications. We had no-show doctors. We had individuals
20 perpetrating as doctors.

21 And in light of the fact that the vast overwhelming
22 majority of the patients were, in fact, paid kickbacks under
23 the case that I previously cited in our brief, that taints the
24 entire magnitude of the billing to Medicare as fraudulent.

25 So, the Government's position is that we have proven

1 at trial and we have proven in this context in sentencing,
2 which is a much lower standard of proof, i.e., a preponderance
3 of the evidence standard, that the entire billed amount, i.e.,
4 \$77 million was fraud.

5 THE COURT: All right. I agree with the Government
6 and the analysis, as I said before, and again, if by some
7 chance any patient benefitted, for example, benefitted from a
8 massage not provided by a certified massage therapist, which
9 was one of the standard things that happened at this clinic,
10 it's certainly incumbent upon the Government to explore each
11 and every such possible coincidental benefit, and it seems to
12 me that the defendant having been fully aware all of the
13 records had she thought there were really offsets that were
14 legitimate and that should be applied, should have brought
15 them to my attention at that point. We could have required
16 the Government to address them and to prove that they weren't
17 legitimate, but I think on this record merely having the
18 defendant say, oh, there should be offsets is not sufficient
19 basis for me to reject the abundant proof that I have that the
20 entire operation was fraudulent.

21 I think that deals with the various defense
22 objections to the guideline calculation. I should say the
23 guideline manual that we'll be using is the 2009 manual
24 because the later manuals would be, would involve higher
25 guidelines for this defendant.

1 So, my finding is that the offense level is 37, the
2 guideline range on the single count to which the defendant
3 pled to, which was the money laundering conspiracy, that was
4 Count 4, would be 210 to 240 years. The 240 is the statutory
5 maximum so that's why it becomes the top of the guideline
6 range. Criminal History Category is one.

7 Oh, the Government is using a different number, 235
8 to 240. I am not sure where that came from. It seemed to me
9 that it should be 210. We're on offense level 37.

10 MS. HALL: Your Honor, the plea agreement, the
11 Government's estimation of the guidelines calculation in the
12 plea agreement is slightly different from the PSR.

13 THE COURT: I see.

14 MS. HALL: The plea agreement included a plus two
15 for sophisticated laundering, whereas the PSR did not. The
16 PSR included a plus two for obstruction, whereas the plea
17 agreement did not.

18 And the plea agreement gave the defendant two points
19 for acceptance as opposed to three, whereas I believe the PSR
20 assumed three points.

21 So, the Government's calculation as set forth in the
22 plea agreement and in our papers is --

23 THE COURT: Well, do you disagree with the
24 Probation Department's calculation?

25 MS. HALL: No, Your Honor.

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1 THE COURT: Okay.

2 MS. HALL: The differences are minor, we don't
3 disagree with the PSR.

4 THE COURT: All right. So then let me just
5 reiterate my conclusion that the Probation Department's
6 calculation is correct.

7 Now, as I understand it, the defendant in the plea
8 agreement agreed to the restitution amount of \$50,943,386.

9 MR. ROSEN: That's correct, Judge.

10 THE COURT: Okay. Which, by the way, I think, also
11 suggests that there is nothing wrong with the Government's
12 loss analysis or my rejection of the set-off argument.

13 This amount reflects the amounts actually paid by
14 Medicare to the three clinics, which this defendant was
15 involved in running.

16 The restitution amount then will be joint and
17 several with her co-defendants, and the schedule will be \$25
18 per quarter while she's in custody, and ten percent of her
19 gross income per month while she is on supervised release.

20 But let's go back then to the rest of the
21 sentencing. I will hear from the defense attorney, from the
22 defendant and then from Ms. Hall.

23 MR. ROSEN: Thank you, Your Honor.

24 Mrs. Shelikhova is now 51 years of age, and as
25 Your Honor has found, she is in Criminal History Category I.

1 She entered a plea, accepted responsibility, saved the Court
2 and Government expense and time of trial and has expressed
3 sincere remorse and contrition.

4 The circumstances surrounding Mrs. Shelikhova's
5 return to the United States in June of 2012 constitutes, in my
6 experience, and I submit this to the Court, a rare, unusual
7 and extraordinary circumstance which warrants Your Honor
8 taking this into consideration in fashioning an appropriate
9 sentence.

10 The gist of what I'm saying, and as I hope I will
11 develop it as I go along, this is clearly and abundantly
12 outside the Heartland of the drafters of the guidelines and
13 anybody else who had anything to do with guidelines, and if I
14 might, I'll tell you what I mean.

15 In making this request, I respectfully submit that
16 Your Honor should consider a sentence well below the
17 Government's requested sentence, and the
18 Probation Department's requested sentence.

19 I begin, Judge Gershon, by acknowledging that
20 Mrs. Shelikhova left the country instead of surrendering in
21 July 2010, whether because of incredibly poor judgment, fear,
22 panic or illness, or a combination of any of them, she
23 nevertheless landed in her country of origin, the Ukraine,
24 which, Judge Gershon, as we all know, has no extradition
25 treaty with the United States.

1 She had, I guess in the parlance of the street, safe
2 haven for the rest of her life. It has now become clear,
3 Your Honor, please, that at the Government's behest and with
4 the Government's knowledge, her son Max, reached out to her in
5 the Ukraine from the MDC to convince his mother to return from
6 her safe haven in the Ukraine. And this is revealed in, I
7 didn't submit it, but it was submitted, it's on ECF,
8 Document 706, which is Max's sentencing letter, which is part
9 of the ECF, pages 1 and 3.

10 It is clear, without doubt now, that the purpose of
11 following the Government's request or behest, let me use the
12 right word, behest, and its knowledge was to convince his
13 mother to return from her safe haven so that he, Max, could
14 obtain a cooperation agreement with the Government.

15 There is now clearly no dispute about that, not that
16 there ever was, but it is clear in my presentation to this
17 Court.

18 It has been proffered to Your Honor on more than one
19 occasion, without dispute by the Government, that Max would
20 need to convince and get his mother to return before he would
21 be offered a cooperation agreement. And again, this is in two
22 places that's on ECF that's been submitted to Your Honor and
23 proffered to Your Honor. One is Document 555 at page 4, and
24 the other is Document 706 that I just referred to. Clear,
25 without dispute. You want a cooperation agreement, you

1 convince and get your mother to leave her safe haven.

2 Okay. And Judge Gershon, I'm going use some very
3 particular words, not my words, but I think they're very
4 significant words. It was proffered to Your Honor in
5 Document 555 at page 4 that it was made clear to Max --

6 THE COURT: What document is that, Counsel?

7 MR. ROSEN: It was an affirmation or affidavit in
8 support of bail for Max Shelikhova.

9 It was proffered to Your Honor that these were the
10 words, and in my 49 years, I've never experienced anything
11 like this -- it was made clear to Max, in no uncertain terms,
12 that that had to be accomplished as a condition of getting a
13 cooperation agreement. And again, I say this most
14 respectfully, this has never to this moment been disputed by
15 the Government.

16 So, Judge Gershon, after advising Mrs. Shelikhova
17 that if and when she did come back, she would immediately be
18 arrested, remanded, further imprisoned, deportation
19 thereafter, huge financial consequences, she came back. She
20 nevertheless, and I represent this to the Court as an officer
21 of the Court, that this was communicated to Mrs. Shelikhova,
22 all these negatives about leaving safe haven, and she made a
23 decision.

24 Nevertheless, she left her safe haven and returned
25 to the United States in June of 2012 as I had arranged with

1 the U.S. Attorney's Office and I think the FBI. Of course she
2 was arrested at JFK the moment she stepped off the plane and
3 has been incarcerated at the MCC for the 17 months since then.

4 Judge Gershon, I submit that these circumstances
5 which I can envision should really be additionally part of
6 3553(a) circumstances of a particular defendant are so rare,
7 unusual and extraordinary, that again I submit, having
8 practiced long before the guidelines came in and now since the
9 guidelines came in, out of the Heartland of anybody's concept
10 of what a person did to effectuate a positive for not only her
11 son, but for the Government. And if you let me articulate
12 that.

13 THE COURT: Yes.

14 MR. ROSEN: It was the Government's and Max's
15 expectations bore fruit, Judge Gershon. The Government
16 secured, according to Max's Counsel's submissions, the
17 Government secured its primary -- quote, primary cooperating
18 witness even to the exclusion of Elena Girenko, who was the
19 one who initially said this whole enterprise was phony from
20 the beginning, but just let me get to my note so I'm not
21 misquoting.

22 She was described as the mastermind, Elena, at the
23 highest level of the conspiracy that she founded and managed.
24 So, the Government and you know that Ms. Girenko was not
25 called as a witness at the previous trial, but Max was. And

1 according to his own Counsel, submitted to Your Honor, Max was
2 the primary cooperating witness in the case.

3 Your Honor no doubt recalls Max from his appearance
4 on the stand in that trial of the doctor who was convicted.
5 Clearly, I submit, to this Court, with every ounce of
6 sincerity, that was a plus.

7 Her return was a plus for the Government. They got
8 their witness and they couldn't use Elena for whatever reason,
9 and got a conviction of the doctor that was heading up that
10 clinic. A plus for the Government.

11 How about Max? How about a plus for Max?

12 He championed in his submission to Your Honor,
13 quote, my successful effort to bring about the return of my
14 mother, and his assistance to the Government as his most
15 salient factor, I think those are the words, why Your Honor
16 should sentence him to time served plus maybe a year. Most
17 salient factor is I got my mother to come back from her safe
18 haven.

19 I never heard of this. Even in my reading, long
20 before I got to 225 Cadman Plaza, never. So, this is a case
21 of first impression for me.

22 The return of Mrs. Shelikhova is clearly a plus for
23 Max, as well as a plus for the Government, and I respectfully
24 submit to this Court, which I have the highest respect for,
25 this Court has been almost my blood for my career, that

1 without Ms. Shelikhova's voluntary return from safe haven,
2 neither the Government, nor Max would have reaped the benefits
3 that I have described.

4 Yes, it's outside the Heartland. This overriding
5 circumstance considered alone or in combination with the hard
6 17 months at MCC, her possible deportation, her shattered
7 family, her health, her mother's health issues, forfeitures
8 and her contrition warrant Your Honor in considering these
9 offender characteristics as part of 3553(a) and to impose an
10 individualized sentence.

11 And I couldn't articulate for more of an
12 individualized set of circumstances than I just described. I
13 mean, if it's happened before, I'm not aware of it.

14 Yes, commensurate with the goals of sentencing, I am
15 aware of the prescriptions and goals of 3553(a). For example
16 Mrs. Shelikhova, after what she's gone through will never, in
17 my humble opinion, violate the law again, and seeing all that
18 has happened to her, I again submit to this Court will surely
19 deter others from committing the offense gotten her here.

20 Respect for the law, which is also a very important
21 part of 3553(a). I have an abiding belief that respect for
22 the law goes both ways, Judge Gershon. I mean, where the law
23 allows a judge, Federal judge, to consider certain
24 circumstances, that's the law. And here I respectfully submit
25 that Your Honor should consider this extraordinary

1 circumstances of her return as reflecting an individualized
2 sentence here because one, the facts warrant it and two, an
3 individualized sentence taking into consideration these
4 specific characteristics are the law.

5 I mean, for example, Gall and Pepper, which I cite
6 in my papers, are among the most recent Supreme Court cases
7 that say we should focus on individual circumstances, and I
8 think Pepper even said, Justice Sotomayor said, sometimes in
9 sentencing the characteristics of the offender are just as
10 important as the offense.

11 And again, I cannot and I've tried very hard, and I
12 really have exhausted my available resources to find another
13 case that's ever come down like this. And I think it should
14 be part of the consideration for this 51-year old woman, who
15 in addition to coming back, walked right into prison.

16 I didn't even make, as Your Honor is I'm sure aware,
17 a bail application, because it was fruitless. A waste of
18 time.

19 So, I'm asking this Court in consideration of these
20 circumstances to impose a sentence which allows
21 Mrs. Shelikhova, and I understand this deportation issue is
22 something that is not within my immediate purview, or perhaps
23 even Your Honor's, a chance at life outside of prison. She
24 has, you know, done a substantial crime. I have not picked
25 apart and I don't intend to now, well, she never paid anybody

1 directly.

2 I understand foreseeability. I understand what
3 conspiracy is, and I understand to be a part of it and you
4 have more than just a clerical role, you're on the hook, and
5 that's the law as well. But I submit to this Court the
6 unusual circumstance that hopefully Your Honor will, has the
7 Government benefitted from her return, and Max hopefully will?
8 Hopefully, Mrs. Shelikhova will as well.

9 Thank you for the time you've given me.

10 THE COURT: All right, thank you.

11 Ms. Shelikhova, is there anything that you would
12 like to say to me directly?

13 THE DEFENDANT: (In English) Yes.

14 MR. ROSEN: Judge, Mrs. Shelikhova has asked if she
15 could read this in English. It's been a couple of
16 retranslations, but she would prefer to address you without
17 the middle person of an interpreter.

18 THE COURT: That's up to her.

19 MR. ROSEN: Okay.

20 THE DEFENDANT: Your Honor.

21 THE COURT: Is this what you wrote, though? These
22 are yours words?

23 THE DEFENDANT: It's my translation. I wrote
24 Russian and for me translate for English, because for me
25 difficult speak English little bit I want read, okay.

1 THE COURT: All right.

2 THE DEFENDANT: Your Honor, I would like to start
3 off by saying thank you.

4 THE COURT: Would you please put microphone in front
5 of the defendant?

6 MR. ROSEN: Yes.

7 THE DEFENDANT: Your Honor, I will like to start by
8 saying thank you for giving me the chance to speak before your
9 court. I am very sorry for my English, but I want to tell you
10 myself what I am thinking about that worries me. Maybe my
11 words will found on, but I want to tell you from the bottom of
12 my heart that I am so sorry.

13 I understand and accept my guilt, and I am very
14 sorry that my actions led me to breaking the law. And now I
15 am awaiting my sentence, the decision, which will affect this
16 rest of my life. I am addressing you, Your Honor, and your
17 entire justice system.

18 I am hard-working woman and all my life I have
19 worked very hard. Even now being in jail I work all the time
20 because I can't just sit there without doing anything. I am
21 asking you to believe that I am never had it in mind to make
22 as much money as I could by any means possible.

23 I always wanted and made sure that my labor was
24 useful, and that what I did was right, beneficial, and had the
25 ability to grow. And I regret that I did so many wrong things

1 and made so many mistakes with which eventually brought me to
2 committing so many violations.

3 I hate myself for letting it all happen. All my
4 sincere, good and poor dreams have not been realized in the
5 honest and correct way, the way I envisioned them.

6 I have been already punished, and I am asking you to
7 accept my remorse and apologies. I am asking you for double
8 forgiveness as mother for her son, because I permitted him to
9 do something which resulted in him breaking the law.

10 The most horrible punishment for me is the
11 separation from my loved ones. I have a very old and ill
12 mother with whom I have lived all my life. She is waiting for
13 me every single day and she needs me and my help already. My
14 heart is broken.

15 I am so guilty in this horrible separation. I pray
16 to God every single day to give me a chance to reach my mother
17 in this life and to help. I pray for my son because without
18 them, my life has no meaning.

19 I am asking you very much to believe me, to believe
20 in my sincere regret, and I give me a chance to return to a
21 normal life. And by doing good deeds and doing my work, I can
22 correct my mistakes and only by doing it, I can prove that I
23 can be an honest person and bring good to my family, as well
24 as to the society where I live.

25 I love people very much and I believe that the

1 difficulty I am going through will not change my feelings
2 toward them, and I will not change how I relate to them.
3 After raising that had happened, what I am feeling now, I am
4 strongly convinced that nothing and nobody could force me to
5 be again something that wrong lead me to break a law and put
6 me behind bars.

7 I love America very much, a country where I live for
8 many years. A country which help me and my family, and now, I
9 am feeling tremendous guilt, because it's that of being
10 grateful I had broken the law. That is why once and again, I
11 am asking you to believe me and give me a chance.

12 Thank you for listening to me and giving me the
13 opportunity to tell you all this.

14 Thank you, very much.

15 THE COURT: Thank you.

16 Ms. Hall.

17 MS. HALL: Thank you, Your Honor.

18 Your Honor, the Government respectfully urges the
19 Court to impose a sentence within United States Sentencing
20 Guidelines for a variety of reasons, but primarily because a
21 below guidelines sentence would be insufficient to satisfy the
22 factors set forth in 18 U.S.C. 3553(a).

23 As Your Honor is well aware, throughout the course
24 of the trial and all of the submissions of Counsel, this
25 defendant, Irina Shelikhova, was the principal mastermind of

1 the Bay Medical healthcare fraud, which was a massive \$77
2 million dollar Medicare fraud, which was one of the biggest
3 healthcare fraud schemes ever perpetrated and ever prosecuted
4 in this district.

5 As detailed extensively at the trial, the
6 defendant's scheme involved multiple facets: The recruitment
7 of patients who are paid cash kickbacks, the use of extensive
8 network of money launderers providing the cash needed to pay
9 the patients, the billing of Medicare for millions of dollars
10 in medical services that were medically unnecessary or not
11 provided at all, the use of unlicensed employees to treat
12 patients, and the massive falsification of medical documents
13 and charts.

14 Even though the defendant was the mastermind and the
15 primary profiteer of this fraud, she regularly hid behind
16 others, including her own family members. She recruited many
17 people into this scheme. She recruited her estranged husband,
18 Sergey Shelikhov, her then-boyfriend, Sergey Zhamaryan and her
19 son, who was then in his early 20s, Maksim Shelikhov. She
20 recruited these individuals and many, many more.

21 And this defendant was able to conceal her
22 leadership role in the scheme by having her family members put
23 their names on Medicare paperwork and New York State corporate
24 paperwork, and also to run the money laundering operation so
25 she would not have to do so.

1 It's clear throughout all of this, all of the
2 Government's evidence, that the defendant's number one
3 motivation for this crime was pure and unvarnished greed. It
4 was Irina Shelikhova who ultimately controlled the more than
5 \$50 million the clinic was paid by Medicare.

6 It was Irina Shelikhova who was a signatory on four
7 bank accounts that received approximately \$34.9 million from
8 Medicare. And once this defendant had the money, she lavished
9 this money, the taxpayer's money on herself, on her son, on
10 her niece, on her boyfriend and other individuals in her inner
11 circle.

12 The extreme pervision of this case is that the
13 taxpayer's money was used to buy real estate, luxury vehicles,
14 including a Bentley, an Astin Martin, a Range Rover, BMW and
15 Mercedes, many luxury watches, jewelry and clothing, multiple
16 extravagant trips to an exclusive resort in Miami, numerous
17 plastic surgeries for this defendant paid for by Medicare, of
18 course, million of dollars in credit card bills, lavish
19 parties and restaurant bills.

20 And Your Honor, ironically and sadly, the
21 defendant's clinic was booming during the recession of 2008
22 and 2009, while millions of Americans and millions of
23 New Yorkers were losing their jobs, losing their houses,
24 losing their financial stability, Irina Shelikhova and her
25 cohorts at Bay Medical were raking in millions and millions of

1 dollars in ill-gotten gains at the expense of the Federal
2 taxpayers.

3 And only a fraction of the \$50 million stolen by
4 this defendant's scheme has been recovered by the Government.
5 In fact, there are millions of dollars in unrecovered fraud
6 proceeds and this defendant has done nothing to help the
7 Government find such money. This defendant has paid nothing
8 back.

9 Now, in her counsel's sentencing submissions, he
10 repeatedly mentions that this defendant's finances have been
11 quote unquote, taken away. But that misses the point
12 entirely.

13 The money was never this defendant's money in the
14 first place. It belonged to the United States Government and
15 ultimately the Federal taxpayers. As soon as this defendant
16 was indicted, she fled the United States for the Ukraine, a
17 country that has no extradition treaty with the United States.

18 She remained a fugitive for almost two years outside
19 the jurisdiction of the United States, and Your Honor, if the
20 unrecovered fraud proceeds are in Ukraine, they are outside
21 the reach of the U.S. Government to this day.

22 It was not until her son was arrested and detained
23 and the defendant voluntarily returned to the United States.
24 She did so undoubtedly to benefit her son, but she also had
25 her own reasons for returning to the United States, which are

1 somewhat in conflict with counsel's statement at oral argument
2 now.

3 The defendant's own letter to Your Honor attached to
4 the September 5th, 2013 sentencing submission, page 1 at the
5 very bottom, the defendant writes to the Court, I left for
6 Ukraine hoping to improve my health and definitely come back,
7 but not everything happened the way I thought.

8 In Ukraine, I encountered many complications and
9 could not return as fast as I wanted, but during this whole
10 period of time I tormented myself and suffered, understanding
11 that that I cannot and do not want to live like that.

12 So, Your Honor, the defendant clearly had her own
13 motivations for returning to the United States that had
14 nothing to do with benefitting her son and certainly had
15 nothing to do with benefitting the United States Government.

16 Taking a step back, there was a real harm inflicted
17 upon Medicare by the defendant's actions. As noted, this is
18 one of the biggest Medicare fraud schemes in this district
19 ever. There were myriad of lies told by the defendant to
20 Medicare, and each one of those was a perversion of the trust
21 that the Medicare system places in clinics that were run by
22 individuals such as this defendant.

23 Every patient who got paid in this defendant's
24 clinic with Medicare's money contributed to eroding confidence
25 in programs such as Medicare, and every false claim that

1 Medicare paid for the supposed Medicare rendered in this
2 defendant's clinic by phony doctors and unlicensed lay-people,
3 was a diversion of Medicare's money from legitimate
4 beneficiaries who need real medical care, sometimes
5 disparately.

6 Medicare fraud is, unfortunately, rampant in this
7 jurisdiction. It needs to be addressed here and deterred
8 here.

9 Sentences handed down in this case can and will
10 reach the community with an effective message of deterrence.
11 However, there will be no deterrence without the real
12 consequences of significant sentences.

13 Your Honor, very respectfully, the sentence you hand
14 down today needs to be enough to prevent an Irina Shelikhova
15 in the community right now from even contemplating committing
16 the crime of Medicare fraud. Currently the message to
17 would-be defendants in the community is that Medicare fraud
18 allows you to earn a comfortable and safe living at the
19 expense of the American taxpayer.

20 In this district, unfortunately, there are a lot of
21 individuals who are willing to do that every day.

22 The lure of a large payday such as the \$77 million
23 billed, \$50 million paid in this case, coupled with
24 historically light sentences in this district has
25 unfortunately and sadly led to undeterred and rampant Medicare

1 fraud.

2 And finally, Your Honor, the sentence in this case
3 should take into account all of the characteristics of this
4 defendant. Her conduct in this case has shown her character.
5 Her conduct has shown that she willingly and knowingly put
6 elderly patients at risk by running a medical clinic that saw
7 500 patients a day at its height, who were treated by
8 completely unlicensed individuals, who rendered supposed
9 medical care to them.

10 This defendant's conduct showed that she did nothing
11 to ensure that there was proper care for those patients. Her
12 conduct shows that she didn't hesitate to recruit family
13 members in the fraud, including her own son.

14 Her conduct shows that she didn't hesitate to put
15 millions of dollars, 50 million dollars in Medicare money into
16 her own pocket, and her conduct shows that when confronted
17 with Federal charges and an arrest warrant, she made the
18 conscious and deliberate decision to flee the United States
19 and become a fugitive for two years in a safe haven.

20 Since she's returned to the United States, she's
21 shown limited remorse and she wrote in her letter to the Court
22 submitted with her counsel's letter of September 5th, 2013,
23 she writes, quote, in the course of business, in the course of
24 the business due to insufficient knowledge, many mistakes and
25 violations were made which led to breaking the law.

1 But what this defendant did is no mistake. It was
2 intentional. It was calculated. It was planned over the
3 course of more than five years.

4 The Court's sentence should ensure that not only
5 that this defendant never returns to a lifestyle of crime, but
6 also that those in the community, the Irene Shelikhovas out in
7 Brooklyn right now who are tempted to steal from Medicare, are
8 also adequately deterred from the temptation of engaging in
9 this unfortunately lucrative crime.

10 For all of those reasons, Your Honor, the Government
11 very respectfully requests for a sentence within the guideline
12 range.

13 Thank you.

14 THE COURT: Thank you.

15 Ms. Donat, is there anything else you want to add?

16 USPO DONAT: No, Your Honor. We rely on our
17 sentencing recommendation.

18 THE COURT: Okay. Any else then from counsel?

19 MR. ROSEN: No, Your Honor.

20 THE COURT: I have studied all of the papers that
21 were submitted to me and considered the guidelines and the
22 3553 factors.

23 This defendant was a, as the Government calls her, a
24 mastermind and the principal profiteer from this massive
25 fraud. Although she often hid her conduct behind others, she

1 was on the bank accounts, she got the money, she used it for
2 herself, her son and others who she cared to lavish her
3 profits on with an enormous undertaking that lasted over five
4 years.

5 It was a massive fraud of the Medicare system and in
6 addition to -- well, Medicare is the technical victim. I am
7 aware from all of the evidence that I have seen that the
8 misuse of the old people who were patients at this clinic for
9 her own personal financial gain was just extraordinary and
10 painful to observe.

11 The defendant was at the clinic virtually every day,
12 as I understand it. She writes in her letter to me how sorry
13 she is, but also says things like I was very attentive and
14 kind to people who attended the clinic. I put my heart into
15 everything I did. I desired that everything was performed at
16 the highest standards, but at my huge regret in the course of
17 business, due to insufficient knowledge, many mistakes and
18 violations were made which led to breaking the law.

19 I don't know entirely how one parses of that letter,
20 but what's clear to me from the actual evidence is that this
21 defendant, who was present, who directed a massive chart
22 falsification operation, who directed others and trained
23 others in how to commit healthcare fraud, who directed her son
24 in getting the money laundering conspiracy, which was
25 necessary to get cash in order to pay cash kickbacks to

1 patients, what's clear to me is that this defendant was fully
2 knowledgeable about what was going on at the clinic. She knew
3 she had doctors who were not performing as doctors should.

4 She had non-doctors, Mr. Khandrius, performing as a
5 doctor, injecting people with things, which were not medicines
6 but water, and getting money from Medicare to do it, using
7 therapists who were not licensed, all of this under her
8 immediate supervision, and all of this shows me that this
9 defendant, despite her attempts to minimize her culpability,
10 was indeed not concerned with other people and certainly not
11 concerned with the patients who came to the clinic.

12 In response to all of that, the defense's principle
13 argument is that I should consider the admittedly unique
14 circumstances of her return. I agree, those circumstances
15 were unique in my knowledge relating to her son seeking to get
16 her back so that he could get cooperation agreement with the
17 Government, but it has to be remembered that she came back
18 after she voluntarily fled this country and now she wants
19 credit for coming back. She should have never left in the
20 first place.

21 Certainly, those unique circumstances don't warrant
22 the extreme variance from the guidelines that the defense here
23 is requesting.

24 So, and with respect to the crime itself, there are
25 simply no mitigating circumstances, financial, emotional or

1 otherwise, that in any way affect the submission of this
2 massive crime. Nothing to excuse it or even explain it in any
3 way other than pure greed.

4 So, under all of the circumstances that I have
5 outlined and that are set forth in the papers, I am going to
6 adopt the recommended sentence of the Probation Department,
7 which I think is fair and just, and it is 15 years in custody
8 and there will be no fine imposed in light of the priority of
9 restitution.

10 I have already described the restitution, which will
11 be joint and several with the co-defendants. Three years of
12 supervised release with special conditions that the defendant
13 comply with the restitution and forfeiture orders and
14 schedules, that she provide full financial disclosure to the
15 Government and finally, if she's deported, there be no illegal
16 re-entry into this country.

17 I am also imposing an exclusion from Federal
18 healthcare programs and finally, there's a mandatory \$100
19 special assessment that I impose.

20 With respect to other issues, I believe there are
21 open counts?

22 MS. HALL: Yes, Your Honor.

23 The Government moves to dismiss the remaining counts
24 of the superseding indictment, with prejudice.

25 THE COURT: The application is granted.

1 The defendant is advised of right to an appeal, and
2 I would just ask if there's any designation request.

3 MR. ROSEN: Yes, Judge. We ask, if Your Honor would
4 consider either requesting Alderson in Virginia.

5 THE COURT: I don't typically recommend a particular
6 place, if there's a location for some reason --

7 MR. ROSEN: Well, Coleman in Florida, there's a camp
8 there.

9 THE COURT: Well, I'm not picking the place.

10 MR. ROSEN: Well, a designation would be --

11 THE COURT: Why does she want to go to Florida?

12 MR. ROSEN: Because she has family there.

13 THE COURT: She has family in Florida. What family
14 are in Florida?

15 MR. ROSEN: A sister.

16 THE COURT: Florida, okay.

17 So, you would like a recommendation to a prison in
18 Florida, all right. Her other family is here in New York, I
19 thought.

20 MR. ROSEN: Well, there's a mother here in New York,
21 but she's not able to visit because of her incapacity, but she
22 does have family in Florida.

23 THE COURT: All right.

24 MR. ROSEN: I would also ask, since I raised the
25 issue of her mother, that there's an issue that is developing,

1 which is difficult but that's the mother resides in a building
2 that is subject to forfeiture and we understand that. We
3 understood that when we signed the agreement.

4 However, if there was some way that either the Court
5 or with the Court's concurrence, I can work something out
6 where the mother can remain in that apartment, that would be a
7 positive thing for the woman. Not so much for
8 Mrs. Shelikhova, but for her mother who is 84, 85, and
9 confined to a wheelchair. Hopefully, the Court can assist.

10 THE COURT: Well, I don't know what I can do.
11 You've agreed to an order of forfeiture, as to that building.

12 MR. ROSEN: Yes.

13 THE COURT: And now you're coming to me so say I
14 should do something about the apartment?

15 MR. ROSEN: I'm not asking you to --

16 THE COURT: Look, talk to the Government. I don't
17 know whether they're seeking to sell the building or it's
18 going to be -- I don't know what the status of the building
19 is.

20 MR. ROSEN: I'm just raising it as a potential for
21 either negotiation or the Court's involvement. If the Court
22 can't get involved, I understand that.

23 THE COURT: Well, I mean, you raise -- Mr. Gullotta.

24 MR. GULLOTTA: Yes, Your Honor. I believe that is
25 one of the few properties that actually has value, so the

1 Government intends to pursue its forfeiture.

2 In other cases, I know there are sometimes
3 circumstances where a tenant will pay rent to the Government
4 while it owns the property. It's something that could perhaps
5 entertain prior to an ultimate sale of the property. In the
6 meantime, I'm not sure that else can be worked out.

7 MR. ROSEN: I'll pursue it.

8 THE COURT: All right.

9 Anything else?

10 MR. ROSEN: No, Your Honor.

11 THE COURT: Is there any property that the
12 Government is holding of the defendant, other than the
13 forfeited property? I mean, personal property of any kind
14 that needs to be resolved?

15 MR. ROSEN: I don't think so, no.

16 THE COURT: All right.

17 All right then, that concludes the proceeding.

18 Thank you.

19 ALL: Thank you, Your Honor.

20 (Defendant remanded.)

21 (Matter concluded.)

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23 ooo0ooo

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25